

REMARKS/ARGUMENTS

Claims 63 - 125 remain unamended and are in the case. The previous statement of the allowance of Claims 63-87 and Claims 112-125 has been withdrawn, but Claims 67, 72, 84, 113 and 123 have now been indicated as being allowable if rewritten in independent form. This indication of patentable subject matter is acknowledged.

In the outstanding, non-final Office Action, the Examiner rejected Claims 88-111 as being based on an insufficient disclosure under 35 USC §112, First Paragraph due to the subject matter contained in Claims 88 and 89, the remaining claims being dependent upon a rejected claim; and rejected Claims 63-66, 68-71, 73-83, 85-87, 112, 114-122, 124 and 125 as being anticipated under 35 USC §102(e) (the pre-AIPA version) by the newly cited Brewer reference, U.S. Patent 6,711,357.

By this Amendment, none of the claims has been amended, but the specification and drawings have been amended to explicitly support the claimed subject matter of claims 88-111. The material added to the specification and the new drawing added are not new matter because they were copied from the specification and drawings of an application incorporated herein by reference

in the original application. Accordingly, it is submitted that no new matter has been added.

RESPONSE

The present invention as embodied in independent Claim 88 is directed to an IP packet router system that comprises at least one chunk and an IP packet router that includes an optical switch fabric through which the chunk passes. The claimed system allows a purely optical switch to operate at the core of a large-scale, high data throughput router.

Rejections Under 35 USC §112, Second Paragraph

As mentioned above, the Examiner rejected Claims 88-111 as being based on an insufficient disclosure under 35 USC §112, First Paragraph due to the subject matter contained in Claims 88 and 89, the remaining claims being dependent upon a rejected claim. The Examiner stated in part that:

... "a first electrical switch stage" and "second electrical switch stage" contains subject matter, which was not addressed in the specification.

These rejections are expressly traversed for the reasons stated below, and reconsideration of them is respectfully requested.

The present specification incorporates by reference a concurrently filed, then copending application Ser. No. 09/702,958, now patent 6,711,357, entitled "Timing and Synchronization for an IP Router Using an Optical Switch" which does include the requisite Section 112, First Paragraph disclosure. Thus it is submitted that the present application is not deficient for not including this subject matter. Nevertheless, the appropriate sections from that copending application have been added to the present application by this amendment. The only changes are that the Figure 1 from the '357 patent was numbered Fig. 3 in this application, and some of the numbers of some of the elements were renumbered to avoid conflict with the originally numbered elements in this application. No new matter has been added because of this subject matter having been properly incorporated by reference. See MPEP § 201.06(c)IV.

The rejections of those claims dependent on Claim 88 are also traversed for the reasons cited above with respect to Claim 88.

Accordingly, reconsideration of the rejections and allowance of the Section 112, First Paragraph rejected claims are respectfully requested.

Rejections Under 35 USC §102(e), Second Paragraph

As mentioned above, the Examiner rejected Claims 63-66, 68-71, 73-83, 85-87, 112, 114-122, 124 and 125 as being anticipated by the Brewer et al. Patent 6,711,357 (Brewer).


Brewer is a commonly owned patent the application of which was concurrently filed with the present patent application, namely it was filed on October 31, 2000. However, to the knowledge of the below signed, and as indicated on the cover sheet of this patent, but contrary to the implication of the Examiner, there was no prior PCT application filed. Thus, the earliest date on which the Examiner can rely for this patent to be a reference under 35 USC §102(e), either version, is the U.S. filing date of this patent.

On the other hand, the invention date of the present invention is at least as early as the date on which the U.S. application therefor was filed, namely, October 31, 2000. Because the filing date of the cited Brewer patent is the same date that the present application was filed, it was not "filed before the invention thereof by the applicant for patent...." Accordingly the cited Brewer et al. patent is not a reference against the present application, and must be withdrawn. Such action is therefore requested.

CONCLUSION

For the foregoing reasons, all of the rejections of the Examiner having been addressed and overcome, it is respectfully requested that the present application be immediately allowed and passed to issue.

Respectfully submitted,

By: 
Harold L. Novick
Registration No. 26,011
Customer No. 20529

Date: October 24, 2006
NATH & ASSOCIATES, PLLC
112 South West Street
Alexandria, VA 22314
(703) 548-6284
(703) 683-8396